

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

MICHAEL J. ZUEGE, JR.,

Plaintiff,

v.

DANIEL KNOCH, ROBERT LAZORIK
and WISCONSIN PATIENT
COMPENSATION FUND,

Defendants.

ORDER

09-cv-451-vis

Plaintiff is proceeding on Eighth Amendment and state law negligence and medical malpractice claims against defendants. Now before the court is plaintiff's motion to voluntarily dismiss defendant Wisconsin Patient Compensation Fund from this case without prejudice. Under Fed. R. Civ. P. 41(2), the court can dismiss a claim against a defendant upon the plaintiff's request, "on terms that the court considers proper." Defendant Fund has responded that it has no objection to allowing plaintiff to dismiss his complaint against it. Furthermore, although defendant Fund has filed an answer to the complaint it has not had to engage in any discovery or briefing. Therefore, I will grant plaintiff's motion and dismiss the claims against defendant Wisconsin Patient Compensation Fund without prejudice.

ORDER

IT IS ORDERED that plaintiff's motion to voluntarily dismiss defendant Wisconsin Patient Compensation Fund, dkt. #53, is GRANTED. Defendant Wisconsin Patient Compensation Fund is DISMISSED from this case, without prejudice.

Entered this 4th day of February, 2010.

BY THE COURT:

/s/

BARBARA B. CRABB
District Judge